

Mail Stop Interference  
P.O. Box 1450  
Alexandria VA 22313-1450  
Tel: 571-272-4683  
Fax: 571-273-0042

Paper 1  
Filed: December 23, 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

**Advanced Research and Technology Institute, Inc.**  
Junior Party  
(U.S. Patent Applications 08/948,764, 08/955,572 and 10/027,199).

v.

**Immunex Corporation**  
Senior Party  
(U.S. Patent 7,211,259),

---

Patent Interference No. 105,662 (MPT)  
(Technology Center 1600)

---

**DECLARATION - Bd.R. 203(b)<sup>1</sup>**

1        **Part A. Declaration of interference**

2        An interference is declared (35 U.S.C. § 135(a)) between the above-  
3 identified parties. Details of the application(s), patent (if any), reissue application

---

<sup>1</sup> "Bd.R. x" may be used as shorthand for "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

(if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this DECLARATION.

**Part B. Judge managing the interference**

Administrative Patent Judge Michael P. Tierney has been designated to manage the interference. Bd. R. 104(a).

**Part C. Standing order**

A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this DECLARATION. The STANDING ORDER applies to this interference.

**Part D. Initial conference call**

A telephone conference call to discuss the interference is set for **2:00 p.m. on February 10, 2009** (the Board will initiate the call).

No later than four business days prior to the conference call, each party shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204; SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to the conference call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. Counsel should be prepared to justify any request for a shorter or longer period.

1       **Part E. Identification and order of the parties**

2                       Senior Party

3       Named Inventors: Raymond G. Goodwin, Seattle, WA

4                       Craig A. Smith, Seattle, WA

5       Involved Patent: U.S. Patent No. 7,211,259, issued May 1, 2007, based on  
6                       U.S. Application 08/910,449, filed August 5, 1997.

7       Title:            4-1BB Polypeptides and DNA Encoding 4-1BB  
8                       Polypeptides

9       Assignee:        Immunex Corporation

10  
11                      Junior Party

12       Named Inventor: Byoung Se Kwon, Carmel Indiana

13       Involved Applications:

14            i)       U.S. Application 10/027,199, filed December 20, 2001, entitled  
15                      Receptor and Related Products and Methods;

16            ii)       U.S. Application 08/955,572, filed October 22, 1997, entitled  
17                      Human H-4-1BB Protein;

18            iii)       U.S. Application 08/948,764, filed October 10, 1997, entitled  
19                      Human Receptor H4-1BB Polypeptides and Methods For Use.

20       Assignee: Advanced Research and Technology Institute, Inc.

21  
22       The senior party is assigned exhibit numbers 1001-1999. The junior party is  
23       assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior  
24       party is responsible for initiating settlement discussions. SO ¶ 126.1.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7

- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7

3  
4  
5  
6

7

8

9

10

11

13

14

15

16

17

19

20

21

22

23

24

<sup>2</sup> '572 Claim 31 incorrectly refers to amino acid residues "1186" as opposed to "1-186."

<sup>3</sup> '764 claim 27 depends from previously cancelled claim 25.

1 The parties are accorded the following benefit for Count 1:

2 Immunex Corporation

3 i) U.S. Application 08/236,918, filed May 6, 1994.

4 ii) U.S. Application 08/060,843, filed **May 7, 1993.**

5

6 Advanced Research and Technology Institute Inc.:

7 i) U.S. Application 08/461,652, filed June 5, 1995;

8 ii) U.S. Application 08/122,796, filed **September 16, 1993.**

9

1       **Part G. Heading to be used on papers**

2       The following heading must be used on all papers filed in this interference,  
3   see SO ¶ 106.1.1:

4  
5               UNITED STATES PATENT AND TRADEMARK OFFICE

6                               

---

  
7  
8               BEFORE THE BOARD OF PATENT APPEALS  
9               AND INTERFERENCES

10                               

---

  
                  **Advanced Research and Technology Institute, Inc.**

                                Junior Party

(U.S. Patent Applications 08/948,764, 08/955,572 and 10/027,199).

v.

**Immunex Corporation**

                                Senior Party

(U.S. Patent 7,211,259),

---

  
                  Patent Interference No. 105,662 (MPT)  
                                (Technology Center 1600)

**Part H. Order form for requesting file copies**

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

/Michael P. Tierney/  
Administrative Patent Judge

Attorney for Advanced Research and Technology Institute, Inc.:

Barnes & Thornburg, LLP  
11 South Meridian  
Indianapolis, IN 46204

Attorney for Immunex Corporation:

Immunex Corporation  
Law Department  
1201 Amgen Court West  
Seattle, WA 98119

Enc:

Copy of STANDING ORDER  
Copy U.S. Patent 7,211,259  
Copy of claims of 08/948,764, 08/955,572 and 10/027,199

Revised 3 January 2006